BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

IN RE:	**Joint Application and Petition of South Carolina Electric & Gas Company and Dominion Energy, Incorporated for Review and Approval of a Proposed Business HT Combination between SCANA Corporation and Dominion Energy, Incorporated, as May Be Required, and for a Prudency Determination Regarding the Abandonment of the V.C. Summer Units 2 & 3 Project and Associated Customer Benefits and Cost Recovery Plans**	**Docket No. 2017-370-E**

POST-HEARING BRIEF OF
THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY

The South Carolina Public Service Authority ("Santee Cooper") respectfully offers this post-hearing brief supporting, and the attached proposed order establishing, a Public Interest Fund in the amount of Three Hundred and Fifty-One Million Dollars ($351,000,000). The Public Interest Fund is designed to ensure that a final Commission decision benefits the public interest of all South Carolina customers impacted by South Carolina Electric & Gas Company's ("SCE&G") abandonment of the V.C. Summer Units 2 and 3 Project (the "Project"). It is incontrovertible that the financial effects of the abandonment of the Project stretch beyond SCE&G's defined service territory, a fact which Dominion Energy ("Dominion") has acknowledged in this proceeding. (*See* Merits Hr'g Tr. vol. 11, Test. of James R. Chapman, 2856:24-2859:3 (Nov. 15, 2018) (acknowledging that abandonment of the Project has affected Santee Cooper's direct and indirect customers).) Further, the Joint Applicants also acknowledged that "Dominion has the ability to and recognizes that it should provide a benefit beyond simply SCE&G ratepayers." (*Id*. at 2858:8-13.) Dominion's ability to provide such benefits is supported by its "market capitalization of over $46 billion." (*Id.* at 2857:14-20.) Mr.

Chapman also testified that Dominion owns over $79 billion in assets, and "maintain[s] revolving credit capacity of $6 billion, with liquid assets at any one time typically well in excess of $2 billion." (*Id*. at 2798:25-2799:3.) Despite these acknowledgements, the various proposals offered by SCE&G and Dominion (together, the "Joint Applicants") offer nothing to the vast majority of South Carolinians impacted by the Project, and thus, do not, and cannot, serve the public interest of all of South Carolina.

The Joint Applicants themselves introduced SCE&G's abandonment of the Project into this proceeding. They insist that a necessary precondition of Dominion's proposed acquisition of SCE&G (the "Merger") is the Commission's approval, without material modification, of their proposed Customer Benefit Plan, or later introduced alternative plans, through which they seek to guarantee SCE&G's cost recovery for certain Project costs. The proposed plans also provide direct benefits to SCE&G customers in the form of credits and cost write-offs. Introducing the customer benefits issue into the proceeding has expanded the inquiry of what is in the public interest beyond the direct customers of SCE&G. In order to best serve the public interest and serve the energy needs of the state, the Commission must consider the public interest in a wider context that encompasses the whole State of South Carolina.

Santee Cooper intervened in this proceeding to protect the public interest of its wholesale and retail electric customers as well as the state of South Carolina itself. Santee Cooper is "completely owned by and to be operated for the benefit of the people of [South Carolina]." S.C. Code Ann. § 58-31-110. The state Supreme Court has recognized that Santee Cooper is an "instrumentality of the State," *S.C. Pub. Serv. Auth. v. Citizens & S. Nat'l Bank*, 300 S.C. 142, 165, 386 S.E.2d 775, 778 (1989), and that it "is . . . in a real sense a part of the State . . . ." *Rice Hope Plantation v. S.C. Pub. Serv. Auth.*, 216 S.C. 500, 516, 59 S.E.2d 132, 138 (1950). Indeed,

Santee Cooper has been found to be the state's "alter ego." *Great W. Coal (Ky.), Inc. v. S.C. Pub. Serv. Auth.*, No. 90-246 (E.D. Ky. Aug. 28, 1991), *aff'd per curium*, 951 F.2d 349 (6th Cir. 1991). As Santee Cooper owns a 45% interest in the Project and is responsible for 45% of the Project costs, the state of South Carolina will be both directly and indirectly impacted by the outcome of this proceeding. To serve the public interest, the proposed transaction and the benefits that flow from Dominion's acquisition of SCE&G must not be limited to only a fraction of the state's electric customers. The impact of the Commission's decision here will be felt across the entire state. In order to meet the public interest and avoid harm to South Carolina, the Commission must approve the Merger conditioned upon the creation of a Public Interest Fund that is designed to mitigate the cost impacts of the project to all impacted customers, and to meet the energy needs of the state.

The Public Interest Standard

This Commission can approve the Merger, including any conditions for the Merger, only if it independently concludes that the Merger and its terms are in the public interest. *In Re Application of South Carolina Elec. & Gas Co.*, 2007 S.C. PUC LEXIS 113, at *6 (Commission convened an evidentiary hearing to consider whether settlement of the proceeding "is just, fair, reasonable, [and] in the public interest"). The General Assembly vested the Commission with its regulatory authority and includes the Commission's duty "to regulate common carriers and utilities serving the public as, and to the extent, required by the public interest." 1980 Act No. 440, Section 1.

The Commission is required to determine independently whether the Merger is in the public interest. *See In Re Application of Tega Cay Water Serv., Inc.*, 2006 S.C. PUC LEXIS 198, at *11 (*In Re Tega Cay*) (finding that the Commission "must consider whether the public

interest will be served by" a proposal); *see also In Re Petition of the Office of Regulatory Staff*, 320 P.U.R.4th 268, at *10-11 (recognizing that the Commission itself was charged with determining whether a settlement agreement regarding the Distributed Energy Resource Program Act was in the public interest). Indeed, the Commission's duty is separate and apart from the South Carolina Office of Regulatory Staff's ("ORS") function, as the creation of ORS "did not change the duties of the Commission" to determine whether a proposal is in the public interest. *In Re Tega Cay*, at *13.

In this proceeding, both the Joint Applicants and Santee Cooper agree that the scope of the public interest inquiry necessarily is broader than the borders of SCE&G's service territory. This is not a typical proceeding brought under Section 58-27-1300 seeking the approval for the transfer of utility property, because the Joint Applicants have combined consideration of the Merger with a final determination regarding SCE&G's Project abandonment. Specifically, as a condition precedent to the consummation of the Merger, SCE&G and Dominion have requested a prudency determination regarding the abandonment of the Project as well as approval of a Customer Benefit Plan, or later-offered alternative plans, that incorporate proposed credits, refunds, and cost recovery terms related to the Project.

The need for an expansive public interest inquiry is admitted by the Joint Applicants themselves. Joint Applicants aver that an important factor for the Commission to consider as part of its public interest inquiry here is a path "to ease the burden on customers of [Project] costs, to the highest reasonable extent," (Jt. Pet. p. 3, ¶ 2), and that "there is an absence of harm to South Carolina ratepayers as a result of the Merger," (Agreement and Plan of Merger by and among Joint Applicants, Article VI, Section 6.01(g)). In the Joint Petition, Joint Applicants describe their proposal as in the public interest, (Jt. Pet. p. 7, ¶ 10), and define the scope of that

interest as providing "significant short-term and long-term benefits for SCE&G, its customers, *and the State of South Carolina*," (Jt. Pet. p. 23, ¶ 56) (emphasis added); *see also* Jt. Pet. p. 26, ¶ 60 ("The Merger is in the public interest and will provide benefits to SCE&G customers *and to South Carolina*.") (emphasis added).)

Mr. James Chapman, Dominion's Senior Vice President, Chief Financial Officer, and Treasurer, confirmed the accuracy of these averments and also acknowledged that SCE&G's abandonment affected Santee Cooper direct and indirect customers. (Merits Hr'g Tr. vol. 11, Test. of James R. Chapman, 2856:24-2857:2 (Nov. 15, 2018).) In particular, he acknowledged that the project abandonment will have impacts on Santee Cooper customers that are military families and members of AARP, (*id.* at 2857:3-10), as well as small businesses and large energy users, such as Walmart, (*id.* at 2857:7-13). Despite this acknowledged harm to Santee Cooper's customers, Mr. Chapman admitted that the various benefit plans Joint Applicants have offered in this proceeding do not include any benefits specifically for those customers. (*Id.* at 2860:2-5.)

The Commission should – indeed, must – scrutinize the Merger application, the Customer Benefit Plan, any alternative plan, and the proposals of the intervenors in this case from a state-wide perspective given the ramifications that SCE&G's Project abandonment raises to all of South Carolina. Viewed from this state-wide prospective, it is apparent that the proposals advanced by the Joint Applicants to date are woefully deficient. The public interest can only be achieved if all South Carolinians impacted by the abandonment of the Project derive a benefit from the proposed business combination.

SANTEE COOPER'S ROLE IN THE PROJECT

Pursuant to Section 58-31-200 of the South Carolina Code, the General Assembly vested Santee Cooper with the authority to contract with a joint owner for the planning, financing,

acquisition, construction, ownership, operation, and maintenance of a nuclear generating station in Fairfield County. S.C. Code Ann. § 58-31-200. Consistent with this legislative authorization and the public policy of the state of South Carolina, Santee Cooper entered into such an agreement with SCE&G to develop the Project for the benefit of the people of South Carolina. (Merits H'rg Tr. vol. 2, Test. of Gary Jones, 354:17-355:3 (Nov. 2, 2018).)

Under the terms of a Design and Construction Agreement dated October 20, 2011 ("DCA"), which among other things governs the relationship between Santee Cooper and SCE&G, Santee Cooper is a 45% co-owner of the Project with the remaining 55% owned by SCE&G. (*See* PSC Hearing Ex. No. 19 § 3.1.1.) As part of that agreement, Santee Cooper contracted with SCE&G to serve as Santee Cooper's agent in managing the day-to-day aspects of the Project. (Merits H'rg Tr. vol. 2, Test. of Gary Jones, 359:14-21 (Nov. 2, 2018); PSC Hearing Ex. No. 19 § 2.3 ("SCE&G … act[ed] as agent on behalf of the Project with respect to all aspects of the acquisition, design, engineering, licensing and construction of the Project, including the negotiation, execution and performance of the obligations and enforcement of the rights of the Parties under the EPC Agreement. . . .").) Joint Applicants acknowledged Santee Cooper's role as a minority partner in the Project and SCE&G's role regarding management and oversight. (Merits H'rg Tr. vol. 6, Test. of J. Addison, 1399:24-1400:8 (Nov. 8, 2018) ("But, generally, Santee was a junior partner. . . ."); *Id.* at 1398:6-1399:23 (acknowledging SCE&G oversight of EPC contract); Merits Hr'g. Tr. vol. 15, Test. of Stephen Byrne, 4082-48:18-19 (Nov. 21, 2018) (incorporating deposition dated Aug. 14, 2018) ("Santee Cooper was not actually handling construction themselves. . . .").)

As agent, SCE&G undertook a duty to Santee Cooper, to its ratepayers, and to the state, itself. (Merits H'rg Tr. vol. 3, Test. of Anthony James, 695:11-696:4 (Nov. 5, 2018).) Those duties include the obligation to:

- "Manage all aspects of the day-to-day design and construction of the Project, including. . . scheduling, [and] financial…aspects of the Project." (PSC Hearing Ex. 19 § 2.1b.)
- "Annually develop the Project Budget and a projection to complete the Project . . . ." (*Id.* § 2.1d.)
- "Monitor the Project Budget and annual expenditures . . . ." (*Id.* § 2.1e.)

As the "lead [] in planning and development of the Project" SCE&G also "[had] the primary role in dealing with Governmental Authorities and third-parties vendors. . . ." (*Id.* § 2.1; *see also* Merits H'rg Tr. vol. 2, Test. of Gary Jones, 357:18-359:13 (Nov. 2, 2018).)

Significantly, no party to this proceeding disputes that SCE&G was the majority owner of the Project, and that Santee Cooper's role was as minority owner. More importantly, no party disputes that SCE&G owed a duty to Santee Cooper, its customers, and, by extension, to the state of South Carolina, in its management of the Project, including its dealings with third parties. Nor has any party in this proceeding blamed Santee Cooper for the abandonment or issues related to the schedule and cost for the Project. Indeed, the current CEO of SCANA agreed that Santee Cooper had been a faithful and constructive partner in the construction of Units 2 and 3, faithfully paying its 45% share of construction costs. (Merits H'rg Tr. vol. 7, Test. of J. Addison, 1597:21-1598:18 (Nov. 9, 2018), and, notwithstanding the opening statement of SCANA's attorney, which seemed to ascribe blame for abandonment to Santee Cooper, he said very clearly, "I don't blame Santee." (*Id*. at 1597:6.)

ANALYSIS

I. Santee Cooper's interests are aligned with the public interest of the state of South Carolina.

Created by the General Assembly in 1934, Santee Cooper is owned by and for the benefit of the people of the state of South Carolina. As a result, Santee Cooper's interest in the Project is owned by and for the benefit of the people of South Carolina. From its inception, Santee Cooper's mandate was to develop the resources of the state "for the benefit of all the people of the state, for the improvement of their health and welfare and material prosperity," and by legislative decree its purposes "are public purposes." S.C. Code Ann. § 58-31-80. Santee Cooper is a tax-exempt, non-profit corporation. *Id.* Santee Cooper does not and cannot take actions that are designed to benefit shareholders, because it has no shareholders. Rather, Santee Cooper pays its excess revenues "semiannually to the State Treasurer for the general funds of the State" as a means "to reduce the tax burdens on the people of this State." *Id.* § 58-31-110.

The status of Santee Cooper as a public entity is not lost on the Joint Applicants. Joint Applicant witness James Chapman, CFO of Dominion, recognized that Santee Cooper is a public entity that serves over two million people throughout the state of South Carolina. (Merits Hr'g Tr. vol. 11, Test. of James R. Chapman, 2856:19-23, 2858:23-2859:7 (Nov. 15, 2018); Jt. Mot. to Dismiss and Strike Santee Cooper Pre-hearing Brief (Oct. 30, 2018), Ex. 1, 10/29/2018 Letter from Thomas Farrell to James Brogdon.) Moreover, Thomas Farrell, Chairman and CEO of Dominion, recognized the absence of any relief provided to Santee Cooper, its owners, and its ratepayers – and Dominion's ability to address that need:

> But there's a variety of things we could do, we think, in cooperation with Santee Cooper if we were the owners of SCANA, if you-all authorized us to . . . own SCANA and SCE&G, that could be helpful to Santee Cooper customers. I . . . understand Santee Cooper's concern. I get it. I get it. We're here offering $4

> billion in benefits to SCE&G's customers and nobody's offering any benefits to Santee Cooper's customers. I understand that completely.

(Merits Hr'g Tr. vol. 12, Test. of Thomas Farrell, 3248:22-3249:6 (Nov. 16, 2018).)

The Joint Applicants have linked consideration of the merits of the Merger with abandonment of the Project and the cost and benefits associated with that abandonment. They offer Merger proposals that they claim provide benefits and are in the best interests of the state of South Carolina. However, conspicuously absent from the Customer Benefit Plan or the later offered alternative plans is any recognition of the impact that the Project abandonment has on Santee Cooper and its customers. Indeed, the fact that Santee Cooper and its customers were not included as part of any proposal is highlighted by Dominion's offer to enter into a cost-savings arrangement with Santee Cooper, albeit outside the context of this Merger proceeding.

Given that Santee Cooper's sole purpose is to operate for the benefit of the public, its existence is synonymous with the public interest. Any Merger approval that fails to recognize Santee Cooper and its customers would by definition fail to meet the public interest of South Carolina.

II. SCE&G Actions as Agent for Santee Cooper and Lead in the Planning and Development of the Project Cannot Be Ignored When Considering Proposed Benefits of a Merger Proposal.

While Santee Cooper was contractually barred from managing the day-to-day operations, over the course of construction of the Project, Santee Cooper executives consistently and repeatedly expressed their concerns to SCE&G about the progress of the project and the Consortium's stated performance factors, and suggested solutions regarding the problems they noted in an effort to get the Project's construction goals on track. As early as May 2014, Santee Cooper requested additional project management from entities with EPC experience. (PSC Hearing Ex. 15, at GCJ-2.17 (outlining two years of Santee Cooper's project management

request to SCE&G).) In September 2014, Santee Cooper's CEO, Lonnie Carter, raised with Kevin Marsh its concerns about the Consortium's inability to produce a project schedule. (PSC Hearing Ex. No. 15, at GCJ-4 (Sept. 8, 2014 E-mail from L. Carter to K. Marsh);[1] *see also* Merits Hr'g Tr. vol. 7, Test. of J. Addison, 1645:8-1646:21 (Nov. 9, 2018).) Mr. Carter wrote that the schedule presented by the Consortium was not achievable, and the dates, "both past and future" were "artificial" and "driven by disclosure considerations." (PSC Hearing Ex. No. 15, GCJ-4 (Sept. 8, 2014 E-mail from L. Carter to K. Marsh).) As reflected in a memorandum dated October 21, 2015 and presented to the Santee Cooper Board of Directors, Santee Cooper's "top priority has been getting the project on a credible and maintainable schedule, with future payment for work tied to that schedule." (PSC Hearing Ex. 15, CGJ-2.36.A (Oct. 21, 2015 Memorandum from L. Carter to Santee Cooper Board of Directors).)

In 2015, Santee Cooper raised concerns about the Consortium's claimed performance factor after the execution of the fixed price contract between SCE&G and the Consortium. (PSC Hearing Ex. 15, GCJ-02.24 (Apr. 6, 2015 E-mail from Michael Crosby to Stephen Byrne).) Santee Cooper's representatives "created charts that showed the worsening productivity and its effect on cost and schedule" of the project, in order to present those charts to the senior management of both SCE&G and Santee Cooper. (Merits Hr'g Tr. vol. 14, Test. of Kenneth Browne, 3829:11-18 (Nov. 20, 2018).)

Despite the concerns repeatedly raised by Santee Cooper, SCE&G decided to take a "hands-off" approach to managing the project, which according to witness Anthony James, "delayed implementation of corrective measures." (Merits Hr'g vol. 3, Direct Test. of Anthony James, 659-18:19-20 (Sept. 24, 2018); Merits Hr'g Tr. vol. 3, Test. of Anthony James, 691:11-

[1] This e-mail was also entered into the record as PSC Hearing Exhibit 70.

692:8 (Nov. 5, 2018).) As stated by witness Stephen Byrne during his testimony in this proceeding, SCE&G considered Santee Cooper's then-CEO Lonnie Carter's expressions of concern regarding Westinghouse's capability of continuing the Project to be a "negotiating posture" rather than a serious issue to be taken into account when managing the Project. (Merits Hr'g Tr. vol. 15, Test. of Stephen Byrne, 4082-78:22-4082-79:14 (Nov. 21, 2018) (incorporating deposition dated Aug. 14, 2018).) Kevin Marsh, SCANA's CEO, dismissed Santee Cooper's concerns because he considered Santee Cooper's CEO, Lonnie Carter, to be a "glass-half-[empty] kind of guy. He was always looking on the negative side of most things. . . ." (PSC Dkt. 2017-370-E, No. 280410 (Deposition of Kevin Marsh, Tr. 130:10-21 (Oct. 29, 2018)).)

It was not until August of 2015, over a year following the initial expression of concerns and requests for corrective measures via third-party project management by Santee Cooper, including Santee Cooper's initiation of discussions with Bechtel in January 2015 to prepare a proposal for the Project's assessment, (*see* Merits Hr'g Tr. vol. 2, Direct Test. of Gary Jones, 288-11:23-288-12:3 (Sept. 24, 2018); PSC Hearing Ex. 15, GCJ-2.20 (Feb. 5, 2015 E-mail from Bechtel to L. Carter and M. Crosby regarding a draft Bechtel proposal)), that SCE&G decided to retain an expert third party to review the logistics of the project. That decision was only the result of "pressure[] by [SCE&G's] partner Santee Cooper. . . ." (Merits Hr'g Tr. vol. 2, Test. of Gary Jones, 339:2-7, 430:20-431:2 (Nov. 2, 2018).)

Further, the DCA contractually barred Santee Cooper from raising these concerns with either the PSC or ORS. Section 12.1 of the DCA specifically prevented Santee Cooper from communicating with the Commission or the ORS or taking a position contrary to SCE&G before those bodies. DCA states that "no Party other than SCE&G shall have the right to participate in

meetings, or review and comment upon any of SCE&G's filings, with the PSC or the ORS. No Party may take a position contrary to SCE&G with respect to the Project before the PSC or ORS, expect when required to do so by Law." (PSC Hearing Ex. 19 § 12.1.)

The delay in responding to Santee Cooper's repeatedly expressed concerns regarding the project's schedule and performance factors, and in contracting for expert assistance as requested by Santee Cooper, resulted in significant increases in Project costs that might have been lessened. As a result, Santee Cooper customers already have contributed approximately $540 million toward the cost of the Project, excluding Owner's costs and costs associated with transmission assets. (*See* Pre-Hearing Brief of the South Carolina Public Service Authority at p. 8 (Oct. 26, 2018) (*citing* Santee Cooper, the Nuclear Story and Facts), https://www.santeecooper.com/About/Nuclear-Update/Index.aspx.) Santee Cooper expended significant efforts in an attempt to protect its customers from what its executives rightfully feared were matters that could unjustifiably and unnecessarily increase the cost of the Project. Approval of the Public Interest Fund would serve the public interest by mitigating the impact of these cost increases on Santee Cooper's direct and indirect customers.

III. The Commission should not approve the abandonment proposal and Merger as being in the public interest unless Joint Applicants commit to creating a Public Interest Fund that recognizes the impact of the abandonment on the state of South Carolina.

To correct the defects in the Joint Applicants' proposals and ensure that the Merger satisfies the public interest of all of South Carolina, the Commission should establish a Public Interest Fund that would serve to mitigate the financial impact of the Project and SCE&G's abandonment on all of Santee Cooper's wholesale and retail customers. Such a fund will support Santee Cooper's effectively carrying out the state's energy plan and will address concerns regarding Santee Cooper's customers being "left out in the cold." (Merits Hr'g Tr. vol. 5, Test.

of Lane Kollen, 1234:9-1235:14 (Nov. 7, 2018).) ORS witness Kollen agreed that there is no downside if the Commission, in the public interest, asks for a proposal or suggests Dominion enter into an agreement that would benefit Santee Cooper. (*Id.* at 1235:3-9.)

Under the original proposed Customer Benefit Plan, SCE&G's customers are set to receive $1.3 billion in connection with the proposed combination. (Jt. Pet. p. 24, ¶ 57.a.) Based on SCE&G's testimony, this represents 65% of the approximately $2 billion in costs paid to date by SCE&G's customers for the Project. (*See* Merits H'rg vol. 8, Test. of Iris Griffin, 2046-60:6-11 (Nov. 12, 2018), *from S.C. Elec. & Gas Co. v. Randall*, No. 3:18-cv-01795-JMC **(**July 30, 2018); *S.C. Elec. Gas Co. v. Randall*, No. 3:18-cv-01795-JMC, 2018 WL 3725742, at *3, ¶ 12 (D.S.C. Aug. 6, 2018) ("Ratepayers have paid to SCE&G roughly $2 billion in revised rates for financing the Project." (*citing* SCE&G testimony)).) While Joint Applicants have characterized their proposal as a "fair and equitable solution for all the stakeholder groups" involved in the now-abandoned project, (Merits H'rg Tr. vol. 11, Test. of James R. Chapman, 2859:8-2860:5 (Nov. 15, 2018)), *all stakeholder groups have not been addressed* as part of the Joint Applicants' proposals. To address this deficiency and in accordance with the public interest, Santee Cooper respectfully requests that the same relief should be afforded to the South Carolinians who take retail and wholesale service from it. This Fund would be used by Santee Cooper for the benefit of its customers consistent with its statutory obligations under Section 58-31-55 of the South Carolina Code.

The record evidence establishes that Santee Cooper is responsible for 45% of the capital costs of the Project excluding an Allowance for Funds Used During Construction ("AFUDC"), Owner's Costs, and items already in service. Santee Cooper has paid over $3 billion as its 45% share of those costs. (Merits Hr'g Tr. vol. 14, Test. of Kevin Kochems, 4049:13-4054:3 (Nov.

20, 2018).) Santee Cooper seeks a fund of $351 million, representing 65% of the costs charged to Santee Cooper customers as of December 31, 2017. This request is based on the formula used in SCE&G's Customer Benefit Plan proposal. This sum represents only a fraction of the total costs that Santee Cooper customers will bear going forward.[2] The costs that Santee Cooper customers paid and could continue to pay for this Project cannot be ignored but rather must be included as a component of the Commission's cost/benefit analysis in assessing the merits of Joint Applicants' proposal. A failure to do so would cause harm to the state of South Carolina and would not be in the public interest.

Conclusion

The public interest can only be satisfied if the interests of all customers affected by the abandonment, including Santee Cooper customers, are considered as part of this proceeding.[3] Approval of this Public Interest Fund would address those interests.

[*signature page attached*]

[2] Santee Cooper is not advocating that the Public Interest Fund be established at the expense of SCE&G customers. No portion of this fund should be recoverable in rates from SCE&G customers.

[3] By offering this proposal, Santee Cooper does not intend to and does not waive its rights under the tolling agreement or under any and all agreements between Santee Cooper and SCE&G or SCANA, including the Design and Construction Agreement. Further, Santee Cooper cannot, does not intend to, and does not waive any of its rights or obligations under the law of South Carolina.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ William C. Hubbard
William C. Hubbard
SC Bar No. 0002739
E-Mail: william.hubbard@nelsonmullins.com

B. Rush Smith III
SC Bar No. 012941
E-Mail: rush.smith@nelsonmullins.com

A. Mattison Bogan
SC Bar No. 72629
E-Mail: matt.bogan@nelsonmullins.com

Carmen Harper Thomas
SC Bar No. 76012
E-Mail: carmen.thomas@nelsonmullins.com

Weston Adams, III
SC Bar No. 64291
E-Mail: weston.adams@nelsonmullins.com

1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorneys for South Carolina Public Service Authority

Columbia, South Carolina
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